

AGENDA

MEETING OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE CITY OF HOLLISTER REDEVELOPMENT AGENCY

DATE: Thurs., August 1, 2013 **Time:** 3:00 P.M. **City Hall 375 Fifth St., Hollister, CA**

***ANYONE WISHING TO ADDRESS THE OVERSIGHT BOARD PLEASE STEP
FORWARD AND STATE YOUR
NAME AND ADDRESS TO THE SECRETARY***

This Oversight Board has been created pursuant to §34161 through §34190 of the Health and Safety Code for the sole purpose of overseeing the actions of the Successor Agency to the City of Hollister Redevelopment Agency. In accordance §34179 (h) of the with Health and Safety Code, all Oversight Board ("Board") actions shall not be effective for five business days, pending a request for review by the State Department of Finance ("Department"). In the event that the Department requests a review of a given Board action, it shall have forty days from the date of its request to approve the Oversight Board action or return it to the Board for reconsideration. In the event that the Department returns the Board action to the Board for reconsideration, the Board shall resubmit the modified action for Department approval, and the modified Board action shall not become effective until approved by the Department.

Persons who wish to speak on matters set for Public Hearing will be heard when the presiding officer calls for comments from those persons who are in support of/or in opposition hereto. After persons have spoken, the hearing is closed and brought to Commission level for discussion and action. There is no further comment permitted from the audience unless requested by the Chairman.

Call to Order

Pledge of Allegiance

Roll Call: Members: Bill Avera, Jamie De La Cruz, Holly McWhinnie, Steve Kinsella, Helen Swanson, John Tobias, Ignacio Velazquez

Verification of Agenda Posting

A. Approval of Minutes: Approve minutes of the Oversight Board special meeting of June 20, 2013. **[Pages 4-7]**

B. Communications from the Public on Items Not Listed on the Agenda: This is the time for anyone in the audience to speak on any item not on the agenda and within the subject matter jurisdiction of the Oversight Board. When the Oversight Board calls your name, please come to the podium, state your name and address for the record, and speak to the Board. Each speaker will be limited to 2 minutes. Please note that state law prohibits the Oversight Board from discussing or taking action on any item not on the agenda.

C. Consent – None

D. NEW BUSINESS

1. Election of Board Chair and Vice Chair

The Board will elect a board Chair and Vice Chair for the fiscal year 2013/14.

2. Loan Agreement between the Successor Agency and City of Hollister [Pages 8-19]

The Board will consider approval of Resolution 2013-03 OB, a resolution approving a loan agreement pursuant to Health and Safety Code Section 34173(h) to formalize the loans by the City of Hollister from pooled cash to the Successor Agency for ROPS 1 enforceable obligations.

3. Reschedule September Oversight Board meeting

The Board will consideration of a request to cancel the September 5, 2013 Oversight Board meeting and schedule a special meeting for September 17, 18, or 19, 2013.

E. Reports of the Successor Agency, Board, and County Auditor Controller.

1. Reports from Successor Agency Staff.
2. Reports from the Oversight Board members.
3. Report from the County Auditor Controller.

ADJOURNMENT

NEXT REGULAR MEETING: October 3, 2013

Materials related to an item on this Agenda submitted to the Board after distribution of the agenda packet are available for public inspection in the City Clerk's office at City Hall, 375 Fifth Street, Hollister and the Development Services Department, Successor Agency Office 339 Fifth Street, Monday through Thursday, 8:00 am to noon, 1:00 pm to 5 pm (offices closed between 12:00 and 1:00 p.m. and the last Friday of the month). Such documents are also available on the City of Hollister website at www.hollister.ca.gov subject to staff's ability to post the documents before the meeting.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office at (831) 636-4300 Ext 16. Notification of 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.102-35.104 ADA Title II].

MINUTES

SPECIAL MEETING OF OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF HOLLISTER

June 17, 2013

Director Clint Quilter called the meeting to order at 3:02 p.m.

VERIFICATION OF AGENDA POSTING: The meeting agenda was posted at City Hall on June 14 at 2:20 p.m. per Government Code Section 65954.2(a).

PLEDGE OF ALLEGIANCE: Director Velazquez led the pledge of allegiance.

ROLL CALL:

Present:	Steve Kinsella, Holly McWhinnie, Clint Quilter, Helen Swanson,
Absent:	Jaime De La Cruz, John, Tobias, Ignacio Velazquez
Staff Present:	Bill Avera, Robert Galvan, Mary Paxton
San Benito County Staff Present:	Janet Norris

APPROVAL OF MINUTES:

ACTION: Director Kinsella made a motion to approve the minutes of the March 7, 2013 meeting. Director Swanson seconded. Motion carried 4-0-3.
--

COMMUNICATIONS FROM THE PUBLIC: None

CONSENT CALENDAR: None

OLD BUSINESS: None

NEW BUSINESS:

Report D-1 Status of the Recognized Obligation Payment Schedule 13/14 (ROPS): Mary Paxton reported that the Recognized Obligation Payment Schedule for the period June 30, 2013 to December 31, 2013 was approved by the Department of Finance.

ACTION: The Board received the informational report and memo.
--

Report D-2 Status of the Due Diligence Review of Non-housing funds Schedule 13/14 (ROPS): Mary Paxton reported that the Department of Finance reviewed the Due Diligence Review approval of Non-housing Other Funds and reduced the amount of available balance to \$0 because the ROPS from July through December 2013 was not

deducted. She reported that a meet and confer was requested because the Department of Finance review did address how the retention of \$284,177 of Enforceable Obligations from the ROPS I and \$804,781 of Low Moderate Income Housing Funds that were inadvertently remitted through the Due Diligence Review Process should be repaid to the Successor Agency. It was reported that the Department of Finance issued a revised approval letter and Notice of Completion and advised the Successor Agency to place the \$284,177 on a future ROPS. The Successor Agency was instructed to enter into an agreement with the City of Hollister pursuant to HSC section 34173 (h) for the \$804,781 and then place the amount on a future ROPS.

ACTION: The Board received the informational report.

Report D-3 Discussion of options to restructure an Owner Participation Agreement between the former Hollister Redevelopment Agency and Hollister Honda: Mary Paxton presented a report outlining the history of two loan agreements for \$1.9 million and deferrals for payments until June of 2013 with the former Redevelopment Agency to refurbish a blighted bowling alley to a northern California Honda Powercenter. She explained that the loans were subordinate to a \$2.1 million loan with San Benito Bank. Staff provided background information on sales tax and employment generated from Hollister Honda, and steps the business had taken to weather the economic downturn started in 2008 and the importance of the Hollister Honda as a retail destination to Hollister's economy. It was reported that foreclosure on Hollister Honda would not provide revenue to taxing entities because the Successor Agency loan is subordinate to the San Benito Bank loan and the assessed value of the property is less than the San Benito Bank loan. It was recommended that staff be directed to prepare a resolution directing the Successor Agency to work with Hollister Honda to restructure the loan agreements to combine the \$1.5 million loan and \$400,000 into one loan with the following terms: 1) waive accrued and future interest payments; 2) establish a two tiered payment schedule with payment of \$1,000 per month until the San Benito Bank loan is paid off and payment of at least \$15,600 per month when the San Benito Bank loan is retired; 3) establish a 20-year term with unpaid principal due at the end of the 20-year term.

ACTION: Director Kinsella moved to direct staff to prepare a resolution with the recommendations outlined in the staff report for to restructure the Hollister Honda loan agreement for approval at the next Oversight Board meeting. Director McWhinnie seconded the motion. Motion passed 4-0-3

Report D-4 Discussion of options to restructure an Owner Participation Agreement between the former Hollister Redevelopment Agency and Bob Cain/Todd Renz: Mary Paxton presented a report outlining the history of loan agreement to re agreement

with Bob Cain and Todd Renz for \$81,000 to assist with the removal of a sign and a non-conforming blighted gas station. Staff explained that it was anticipated that the site would be developed for a franchise restaurant in 2008 but development never occurred and the loan is past due. Staff provided information on the stagnate economy since the onset of the 2008 recession and that the fact that the property is located in an earthquake hazard zone poses a financial constraint to new development due to the high cost of surface fault hazard investigations in urban areas on small lots. It was reported that the property is for sale and that the assessed value of the property is higher than the loan and accrued interest. It was recommended that staff be directed to prepare a resolution directing the Successor Agency to work with the lenders to restructure the loan agreements with the following terms: 1) loan principal amount of \$100,000; 2) zero interest; 3) waive accrued and future interest payments; 3) no term. Staff noted that promissory note would require payment of the loan as a condition of the sale of the property.

ACTION: Kinsella made a motion to direct staff to prepare a resolution with the recommendations outlined in the staff report to restructure the Cain/Renz loan agreement for approval at the next Oversight Board meeting. Director McWhinnie seconded the motion. Motion passed 4-0-3

REPORTS OF THE SUCCESSOR AGENCY, BOARD, AND COUNTY AUDITOR CONTROLLER:

Report of Staff: Staff reported that due the resignation of Clint Quilter, Bill Avera was appointed to the Oversight Board as a representative of the former Redevelopment Agency employees.

Staff also recommended cancellation of the July 4, 2013 Oversight Board meeting since it would occur on a National Holiday. Staff was not directed to schedule a special meeting for July.

Report of the Board: None.

Report of the County Auditor Controller: None.

ADJOURNMENT:

ACTION: Director Kinsella made a motion to adjourn the meeting at 3:25 p.m. Director McWhinnie seconded. Motion carried 4-0-3.

Chair of the Oversight Board

ATTEST:

William B. Avera, Secretary



STAFF REPORT
CITY OF HOLLISTER OVERSIGHT BOARD AGENCY AGENDA

DATE: July 24, 2013
STUDY SESSION DATE: N/A

AGENDA ITEM: D-2
MEETING DATE: August 1, 2013

- **TITLE OF ITEM:** Resolution authorizing approval of a Loan Agreement to allow the City of Hollister to advance funds to repay Successor Agency Enforceable Obligations from the Recognized Obligation Payment Schedule I (ROPS) period from January 1, 2012 to July 1, 2012 pursuant to Health and Safety Code Section 34173 (h).
- **BRIEF DESCRIPTION:** This resolution will authorize approval of a Loan Agreement pursuant to Health and Safety Code Section 34173(h) to formalize the loans by the City of Hollister from pooled cash to the Successor Agency for ROPS 1 enforceable obligations.
- **STAFF RECOMMENDATION:** Oversight Board approve the following motion: Adopt Resolution 2013-03 OB.

DEPARTMENT SUMMARY: Staff reported at the June 20, 2013 special meeting that the Due Diligence Review of Other Funds was accepted by the Department of Finance (DOF). However, as noted in the DOF letter included as Attachment 1 to this transmittal, the Successor Agency and City of Hollister were directed by the DOF to enter into a loan agreement. Health and Safety Code Section 34174 (h) requires approval of a loan agreement for the loan of funds from the City of Hollister to the Successor Agency. The loan agreement requires approval by the Oversight Board and Department of Finance. The purpose of the agreement is to allow the City of Hollister to be reimbursed for \$804,781 of ROPS I expenditures that were paid from City of Hollister's pooled cash account rather than the Redevelopment Property Tax Trust Fund. The City of Hollister adopted Resolution 2013-02 SA on July 15, 2013 approving the required loan agreement. The loan agreement requires approval of the Oversight Board and Department before it can be placed on a Recognized Obligation Payment Schedule. Staff recommends that the Oversight Board approve the attached resolution approving the loan agreement. The Loan Agreement will then be forwarded to the Department of Finance for approval. An accepted loan agreement will allow the repayment of the \$804,781 of pooled cash when it is placed on a future Recognized Obligation Payment Schedule (ROPS).

ATTACHMENTS: Resolution, Attachment A - May 29, 2013 Department of Finance letter

CEQA: Approval of the loan agreement is exempt from CEQA

DEPARTMENT: Development Services Department

CONTACT PERSON: Mary M. Paxton

PHONE NUMBER: (831) 636-4316

RESOLUTION NO. 2013-03 OB

A RESOLUTION OF THE OVERSIGHT BOARD OF THE FORMER CITY OF HOLLISTER REDEVELOPMENT AGENCY APPROVING A LOAN AGREEMENT BETWEEN THE CITY OF HOLLISTER CITY COUNCIL AND SUCCESSOR AGENCY TO ADVANCE FUNDS TO THE SUCCESSOR AGENCY FOR ENFORCEABLE OBLIGATIONS

WHEREAS, on February 1, 2012, pursuant to AB x1 26 (the "Dissolution Act"), the Hollister Redevelopment Agency (the "Dissolved RDA") was dissolved, along with all redevelopment agencies in the State of California, and all assets and obligations of the Dissolved RDA were transferred by operation of law to the Successor Agency; and

WHEREAS, on January 9, 2012, the City Council (the "City Council") of the City adopted a resolution accepting for the City the role of Successor Agency to the Dissolved RDA; and

WHEREAS, the Dissolution Act requires that the Successor Agency prepare a Recognized Obligation Payment Schedule ("ROPS") for each six-month period setting forth all enforceable obligations (as defined in the Dissolution Act) of the Successor Agency; and

WHEREAS, the Successor Agency prepared a ROPS for the period between January 1 and June 30, 2012 ("ROPS I"); and

WHEREAS, the Dissolution Act creates an oversight board for each redevelopment agency to oversee the wind down of the redevelopment agency ("Oversight Board"); and

WHEREAS, by Resolution 2012-03 OB, the Oversight Board for the Successor Agency approved ROPS I; and

WHEREAS, as set forth in the May 29, 2013 letter from the State Department of Finance ("DOF") to the City of Hollister regarding the Other Funds and Accounts Due Diligence Review:

\$804,781 should have been retained for payment of ROPS I expenditures but was inadvertently deposited in Low and Moderate Income Housing Fund (LMIHF) and remitted through the LMIHF DDR process. As a result, ROPS I expenditures were paid for from the City of Hollister's (City) pooled cash account. Therefore, the Agency should enter into an agreement with the City pursuant to HSC section 34173(h) to formalize the loans made by the City to the Agency for ROPS I approved enforceable obligations. This loan should be placed on a subsequent ROPS for review and approval by Finance.

WHEREAS, pursuant to the direction of the DOF, the City and the Successor Agency wish to enter into this Loan Agreement to formalize the loan of \$804,781 made from the City's pooled cash account to pay DOF approved enforceable obligations of the Successor Agency for the ROPS I time period; and

WHEREAS, the Successor Agency and the City have determined that entering into this Loan Agreement is in the best interests of the Successor Agency and the City and approved Resolutions 2013-02 SA and Resolution 2013-106 on July 17, 2013 approving the Loan Agreement.

NOW, THEREFORE BE IT RESOLVED, that the Oversight Board hereby approves the Loan Agreement (City Advance to Successor Agency Enforceable Obligation Payments) attached as Exhibit 1.

PASSED AND ADOPTED by the Oversight Board of the former City of Hollister Redevelopment Agency at a regular meeting duly held on this 1st day of August 2013, by the following vote:

AYES:
NOES:
ABSTAINED:
ABSENT:

Chair

ATTEST:

Bill Avera, Development Services Director

LOAN AGREEMENT
(City Advance to Successor Agency Enforceable Obligation Payments)

This Loan Agreement (the "Loan Agreement") is made and entered into as of July 15, 2013, by and between the City of Hollister, a municipal corporation (the "City"), and the City of Hollister, acting in its capacity as the Successor Agency to the former Hollister Redevelopment Agency ("Successor Agency").

RECITALS

WHEREAS, on February 1, 2012, pursuant to AB x1 26 (the "Dissolution Act"), the Hollister Redevelopment Agency (the "Dissolved RDA") was dissolved, along with all redevelopment agencies in the State of California, and all assets and obligations of the Dissolved RDA were transferred by operation of law to the Successor Agency; and

WHEREAS, on January 9, 2012, the City Council (the "City Council") of the City adopted a resolution accepting for the City the role of Successor Agency to the Dissolved RDA; and

WHEREAS, the Dissolution Act requires that the Successor Agency prepare a Recognized Obligation Payment Schedule ("ROPS") for each six-month period setting forth all enforceable obligations (as defined in the Dissolution Act) of the Successor Agency; and

WHEREAS, the Successor Agency prepared a ROPS for the period between January 1 and June 30, 2012 ("ROPS I"); and

WHEREAS, the Dissolution Act creates an oversight board for each redevelopment agency to oversee the wind down of the redevelopment agency ("Oversight Board"); and

WHEREAS, by Resolution 2012-03 OB, the Oversight Board for the Successor Agency approved ROPS I; and

WHEREAS, as set forth in the May 29, 2013 letter from the State Department of Finance ("DOF") to the City of Hollister regarding the Other Funds and Accounts Due Diligence Review:

\$804,781 should have been retained for payment of ROPS I expenditures but was inadvertently deposited in Low and Moderate Income Housing Fund (LMIHF) and remitted through the LMIHF DDR process. As a result, ROPS I expenditures were paid for from

DUPLICATE OF ORIGINAL
ON FILE IN THE
OFFICE OF THE CITY CLERK
CITY OF HOLLISTER

the City of Hollister's (City) pooled cash account. Therefore, the Agency should enter into an agreement with the City pursuant to HSC section 34173(h) to formalize the loans made by the City to the Agency for ROPS I approved enforceable obligations. This loan should be placed on a subsequent ROPS for review and approval by Finance.

WHEREAS, pursuant to the direction of the DOF, the City and the Successor Agency wish to enter into this Loan Agreement to formalize the loan of \$804,781 made from the City's pooled cash account to pay DOF approved enforceable obligations of the Successor Agency for the ROPS I time period; and

WHEREAS, the City and the Successor Agency have determined that entering into this Loan Agreement is in the best interests of the City and the Successor Agency.

NOW, THEREFORE, in consideration of the promises and the mutual agreements herein contained, the parties hereto do hereby agree as follows. The foregoing recitals are hereby incorporated by reference and made part of this Loan Agreement.

ARTICLE I. LOAN PROVISIONS

Section 1.01 Loan.

The Successor Agency hereby agrees to repay the City the loan advances made by the City to pay Successor Agency enforceable obligations for the ROPS I period in the principal amount of Eight Hundred Four Thousand Seven Hundred Eight-One Dollars (\$804,781) (the "Loan").

Section 1.02 Interest.

(a) Interest. Interest on the Loan shall accrue as of the date the Loan funds were disbursed, continuing until such time as the Loan is repaid in full, at a rate equal to the interest rate applicable to funds on deposit in the Local Agency Investment Fund, compounded annually, effective as of the Effective Date of this Loan Agreement (as set forth in Section 3.04).

(b) Default Interest. In the event of a default under this Loan Agreement, interest on the Loan shall begin to accrue as of the date of default and continuing until such time as the Loan is repaid in full or the default is cured, at the default rate of the lesser of eight percent (8%) per annum, compounded annually (the "Default Rate") or the highest rate permitted by law.

Section 1.03 Use of Loan Funds.

The parties acknowledge that the Successor Agency has used the Loan proceeds for the purpose of paying approved enforceable obligations listed on ROPS I.

Section 1.04 Repayment of Loan.

(a) The Loan is an enforceable obligation of the Successor Agency and is payable on June 1 and January 2 of each year from the Real Property Tax Trust Fund ("RPTTF") maintained by the San Benito County Auditor-Controller for the purpose of paying enforceable obligations of the Successor Agency.

(b) The Loan shall be set forth in full as an enforceable obligation of the Successor Agency on the ROPS for the period from January 1, 2014 through June 30, 2014 (the "ROPS 13-14B"). It shall be due and payable in full from the Successor Agency's Redevelopment Obligation Retirement Fund ("RORF") following the January 2, 2014 payment to the RORF by the San Benito County Auditor-Controller. However, should the Successor Agency receive insufficient funds from the RPTTF to pay all costs shown on ROPS 13-14B, then the amount due and payable on the Loan shall equal the amount deposited into the RORF less all other costs shown on ROPS 13-14B, and the balance of any principal and interest due on the Loan shall be due and payable in full on the next ROPS.

(c) The procedure described in subsection (b) of this Section shall continue to be followed for each ROPS until the principal and interest due on the Loan are paid in full. Any remaining principal and interest due on the Loan shall continue to be shown as an enforceable obligation on each ROPS until the Successor Agency has received sufficient funds to pay all principal and interest due on the Loan.

(d) All Loan payments shall first be used to pay all accrued interest and then to reduce the principal balance.

Section 1.05 Books and Accounts; Financial Statements.

The Successor Agency will keep, or cause to be kept, proper books of record and accounts showing the use of the Loan funds, interest due on the Loan, Loan repayments, and principal and interest outstanding.

ARTICLE II. DEFAULT AND REMEDIES

Section 2.01 Event of Default.

Failure by the Successor Agency to pay the principal or interest on the Loan when due and payable shall constitute a default.

Section 2.02 No Waiver.

A waiver of any default by the City shall not affect any subsequent default or impair any rights or remedies on the subsequent default.

Section 2.03 Remedies Not Exclusive.

No remedy herein conferred upon or reserved to the City is intended to be exclusive of any other remedy. Every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing, at law or in equity or by statute or otherwise.

ARTICLE III. MISCELLANEOUS

Section 3.01 No Merger.

In entering into this Loan Agreement, the City is acting in its capacity as a municipal corporation, while the Successor Agency is acting in its capacity as the successor to the Dissolved RDA; and both the City and the Successor Agency are acting pursuant to the specific authority granted by the Oversight Board and by Health & Safety Code Sections 34173(h), 34178(a) and 34180(h) authorizing loan agreements between the City and the Successor Agency. Consequently, the parties to this Loan Agreement are not merged.

Section 3.02 Successors and Assigns.

Whenever in this Loan Agreement either the Successor Agency or the City is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all the covenants and agreements in this Loan Agreement by or on behalf of the Successor Agency or the City shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

Section 3.03 Amendment.

Agreement dated July 15, 2013

EXHIBIT 1

This Loan Agreement may be amended by the parties hereto but only by a written instrument signed by both parties and with the approval of the Oversight Board.

Section 3.04 Effective Date.

This Loan Agreement shall take effect upon approval by the Oversight Board and, following that approval, at the time and in the manner prescribed in Health & Safety Code Section 34179(h) (the "Effective Date").

Section 3.05 Severability.

If any Section, paragraph, sentence, clause or phrase of this Loan Agreement shall for any reason be held illegal, invalid or unenforceable, such holding shall not affect the validity of the remaining portions of this Loan Agreement. The City and the Successor Agency hereby declare that they would have adopted this Loan Agreement and each and every other Section, paragraph, sentence, clause or phrase hereof and authorized the Loan irrespective of the fact that any one or more sections, paragraphs, sentences, clauses, or phrases of this Loan Agreement may be held illegal, invalid or unenforceable.

IN WITNESS WHEREOF, the City of Hollister and the City of Hollister, acting as the Successor Agency to the former Hollister Redevelopment Agency, have caused this Loan Agreement to be signed by their respective officers as of the day and year first above written.

CITY OF HOLLISTER, CALIFORNIA,
a California municipal corporation ("CITY")

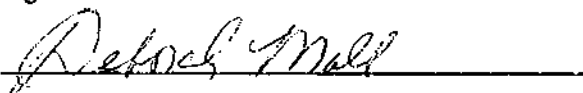
By:


Clint Quilter, City Manager

APPROVED AS TO FORM:

Wellington Law

By:

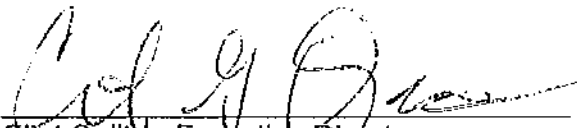


DUPLICATE OF ORIGINAL
ON FILE IN THE
OFFICE OF THE CITY CLERK
CITY OF HOLLISTER

Agreement dated July 15, 2013

EXHIBIT 1

CITY OF HOLLISTER, CALIFORNIA,
a California municipal corporation, acting as the Successor Agency to the former
Hollister Redevelopment Agency ("SUCCESSOR AGENCY")

By: 
Clint Quilter, Executive Director

APPROVED AS TO FORM:

Wellington Law

By: _____

DEPARTMENT OF
FINANCE

EDMUND G. BROWN JR. • GOVERNOR

915 L STREET ■ SACRAMENTO, CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

May 29, 2013

Mr. William Avera, Development Services Director
City of Hollister
375 Fifth Street
Hollister, CA 95023

Dear Mr. Avera:

Subject: Other Funds and Accounts Due Diligence Review

This letter supersedes the California Department of Finance's (Finance) original Other Funds and Accounts (OFA) Due Diligence Review (DDR) determination letter dated April 24, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Hollister Successor Agency (Agency) submitted an oversight board approved OFA DDR to Finance on February 7, 2013. The purpose of the review was to determine the amount of cash and cash equivalents available for distribution to the affected taxing entities. Finance issued an OFA DDR determination letter on April 24, 2013. Subsequently, the Agency requested a Meet and Confer session on one or more items adjusted by Finance. The Meet and Confer session was held on May 20, 2013.

Based on a review of additional information and documentation provided to Finance during the Meet and Confer process, Finance has completed its review of those specific items being disputed. Specifically, the following adjustments were made:

- Our review indicates the Agency did not request to retain balances to satisfy Recognized Obligation Payment Schedule (ROPS) obligations for fiscal year 2012-13. Specifically, the Agency did not include the July through December 2012 (ROPS II) obligations in the amount of \$2,587,132 from the Redevelopment Property Tax Trust Fund. Therefore, the OFA balance available will be decreased by \$2,587,132.

During the Meet and Confer process, the Agency provided additional information showing that the Agency also expended \$284,177 during the January through June 2012 (ROPS I) period on items that were denied by Finance during the ROPS I review. These items were subsequently approved through the Meet and Confer process during the January through June 2013 (ROPS III) review. However, HSC section 34177 (a) (3) states that only those payments listed in the approved ROPS may be made from the funding source specified in the ROPS. To the extent the Agency believes the denied items on the ROPS I are enforceable obligations, the Agency should list those items on a future ROPS for payment.

In addition, the Agency claims \$804,781 should have been retained for ROPS I expenditures but was inadvertently deposited in Low and Moderate Income Housing Fund (LMIHF) and remitted through the LMIHF DDR process. As a result, ROPS I

expenditures were paid for from the City of Hollister's (City) pooled cash account. Therefore, the Agency should enter into an agreement with the City pursuant to HSC section 34173 (h) to formalize the loans made by the City to the Agency for ROPS I approved enforceable obligations. The loan should be placed on a subsequent ROPS for review and approval by Finance.

As a result, there are no unencumbered OFA balances available for distribution (see table below).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ 1,605,882
Finance Adjustments	
Balance retained for fiscal year 2012-13 obligations	(2,587,132)
Total OFA available to be distributed:	\$ -

This is Finance's final determination of the OFA balances available for distribution to the taxing entities. HSC section 34179.6 (f) requires successor agencies to transmit to the county auditor-controller the amount of funds identified in the above table within five working days, plus any interest those sums accumulated while in the possession of the recipient. Upon submission of payment, it is requested you provide proof of payment to Finance within five business days.

If funds identified for transmission are in the possession of the successor agency, and if the successor agency is operated by the city or county that created the former redevelopment agency, then failure to transmit the identified funds may result in offsets to the city's or the county's sales and use tax allocation, as well as its property tax allocation. If funds identified for transmission are in the possession of another taxing entity, the successor agency is required to take diligent efforts to recover such funds. A failure to recover and remit those funds may result in offsets to the other taxing entity's sales and use tax allocation or to its property tax allocation. If funds identified for transmission are in the possession of a private entity, HSC 34179.6 (h) (1) (B) states that any remittance related to unallowable transfers to a private party may also be subject to a 10 percent penalty if not remitted within 60 days.

Failure to transmit the identified funds will also prevent the Agency from being able to receive a finding of completion from Finance. Without a finding of completion, the Agency will be unable to take advantage of the provisions detailed in HSC section 34191.4. Specifically, these provisions allow certain loan agreements between the former redevelopment agency (RDA) and the city, county, or city and county that created the RDA to be considered enforceable obligations. These provisions also allow certain bond proceeds to be used for the purposes in which they were sold and allows for the transfer of real property and interests into the Community Redevelopment Property Trust Fund once Finance approves the Agency's long-range property management plan.

In addition to the consequences above, willful failure to return assets that were deemed an unallowable transfer or failure to remit the funds identified above could expose certain individuals to criminal penalties under existing law.

Pursuant to HSC sections 34167.5 and 34178.8, the California State Controller's Office (Controller) has the authority to claw back assets that were inappropriately transferred to the city, county, or any other public agency. Determinations outlined in this letter do not in any way eliminate the Controller's authority.

Mr. Avera
May 29, 2013
Page 3

ATTACHMENT 1 PAGE 3 OF 3

Please direct inquiries to Evelyn Suess, Dispute Resolution Supervisor, or Mary Halterman, Analyst, at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Ms. Mary Paxton, Program Manager, City of Hollister
Mr. Joe Paul Gonzalez, Auditor-Controller, San Benito County Auditor-Controller
California State Controller's Office